IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.200 OF 2005

M/s.Krystal Condominium .. Appellants
V/s
Municipal Corporation of Gr.Mumbai & Anr.. Respondents

Mr.J.P.Cama, Senior Advocate with Mr.P.I.Poulose i/by M/s.Sanjay Udeshi & Co. for the Appellants.

Mr.A.J.Bhor for the Respondents.

CORAM: DR.S.RADHAKRISHNAN &
SMT.V.K.TAHILRAMANI, JJ.

DATE : 14.12.2005.

P.C.:

1. Heard the learned Counsel for the parties. Mr.Cama, the learned Senior Counsel appearing for the Appellants, on instructions from the Appellants seeks leave to withdraw this Appeal and seeks liberty to approach the Court of Small Causes at Mumbai by way of an Appeal under Section 217 of the Mumbai Municipal Corporation Act, 1888. In view thereof, Letters Patent Appeal No.200 of 2005 is allowed to be withdrawn and stands dismissed as such with the aforesaid liberty.

2. Mr.Cama, the learned Senior Counsel for the Appellants states that within a period of one month from today the Appellants will be filing an Appeal, and at the same time, the Appellants will also be depositing the sewerage taxes in the sum of Rs.36,73,153/- with the Court of Small Causes, in accordance with the provisions of Section 217 of the Mumbai Municipal Corporation Act.

3. The Appellant-Petitioner had raised certain jurisdictional issues by way of Writ Petition before this Court being the Writ Petition No.9454 of 2004,

which came to be disposed of by this Court on 7th April, 2005. Thereafter the present Letters Patent Appeal was lodged on 6th June, 2005 and the same has been withdrawn today. The appropriate remedy would be an Appeal before the Court of Small Causes. The Appellants therefore seeks to prefer an Appeal before the Court of Small Causes. The learned Counsel for the Respondent-Corporation fairly states that the Court of Small Causes at Mumbai has jurisdiction to entertain an Appeal even with regard to the sewerage taxes. The learned Counsel for the Respondent-Corporation further states that under the aforesaid peculiar facts and circumstances, the Respondent-Corporation will not raise any objection with regard to the limitation, if the Appeal is filed by the Appellants within a period of one month from today with the aforesaid deposit of Rs.36,73,153/- with regard to the sewerage taxes.

4. Upon the Appellants filing an Appeal within a period of one month from today with the aforesaid deposit of Rs.36,73,153/-, the Court of Small Causes at Mumbai is directed to dispose of the said Appeal as expeditiously as possible, preferrably within a period of one year thereafter.

(DR.S.RADHAKRISHNAN, J.)

(SMT.V.K.TAHILRAMANI,J.)